

Thomas Ivers, Esq; App^tSir Will. Barker, Bar. Resp^t

The Respondent's C A S E.

BY Articles made on the Marriage of Sir William Barker, deceased, the Respondent's Father, with the Respondent's Mother; the Respondent's said Father agreed to settle the Manor of *Bocking*, in the County of *Essex*, which he covenanted was worth 500 *l. per Annum*, clear of all Incumbrances upon himself for Life, Remainder to his Wife for a Jointure, and afterwards on the several Sons of that Marriage, and that he would purchase 300 *l. per Annum* more in *England*, and settle it to the same Uses. And further covenanted, that his Estate in *Lymerick* should be settled on his said Wife, for an Addition to her Jointure, but to be discharged therefrom, when he should purchase and settle the said 300 *l. per Ann.* in *England*.

That Sir W. Barker the Respondent's Father having performed no Part of his Marriage Articles.

The Respondent filed his Bill in the Court of Chancery in *Ireland*, to compel him to make good his Marriage Agreement, by Sale of the *Lymerick* Estate, to raise Money for that Purpose.

The Respondent's Father put in his Answer. And

The Cause came on to be heard, and it was (*inter al*) decreed, that the said *Lymerick* Estate should be sold, and that the Purchase Money should be applied to discharge the Mortgages affecting the same, and to purchase the said 300 *l. per Ann.* in *England*.

That the said Cause being reheard the 27th Nov. 1707, it was decreed that the Respondent's Father should perform the said Marriage Articles, and disincumber the said *Bocking* Estate, and purchase 300 *l. per Ann.* more in *England*, pursuant to the said Articles: And it was further decreed, that the said *Lymerick* Estate, or so much thereof as should be necessary should be sold, and with the Produce thereof, the Incumbrances thereon to *Freek* and *Riggs*, two Mortgagees, should be discharged, and the Remainder of the Purchase Money be brought into Court, that the other Creditors of the late Sir William Barker, whose Debts did any way charge the Estate at the Time of Filing his Answer, might be paid on ascertaining their several Demands, and for purchasing 300 *l. per Ann.* in *England*, to be settled according to the said Marriage Articles.

This Decree on an Appeal brought by the Respondent's Father against the same, was affirmed by your Lordships, with 50 *l.* Costs.

That the *Lymerick* Estate being accordingly put up to Sale, the Appellant was reported the Purchaser at 21410 *l.* on the 27th of July, 1715.

The Appellant neglecting to pay his Purchase Money, the Respondent moved the Court that he might pay it, or be discharged from the Purchase; but that Motion was not granted.

The Lord Chancellor upon a Petition preferred by the Appellant, but in the Name of the late Sir Will. Barker, ordered, that the Appellant should pay what was due on the said Mortgages to *Freek* and *Riggs*, and thereupon should have the Possession of all the purchased Lands, tho' it was opposed by the Respondent, who insisted that the Appellant should not have the Possession, until he paid the whole Purchase Money into Court, according to the Order, on Hearing of the 27th Nov. 1707, and which had been affirmed by your Lordships.

That the Respondent petitioned against the said Order, and pray'd that Appellant might pay his Purchase Money before he had Possession; but his Lordship dismissed the Petition, and ordered Possession to be given to the Appellant; and the Appellant to avoid paying his Money into Court, (tho' expressly so directed by the Decree) obtained an Order to pay Part of it to such Persons, as the said Sir William the Father, should certify were his Creditors, though not mentioned as such in his Answer: And the Appellant pretended he paid such Creditors several Sums of Money, and that he paid the said Sir William himself, or his Agent, the Sum of 4675 *l.* 7 *s.* --- *d.* But the Appellant hath not to this Day paid any Part of the Purchase Money into Court, except 1000 *l.* as a Deposit at the Time of the Sale.

The Appellant for further Delay in 1717, after he had been in Possession of the said Estate a Year, filed a Bill against the late Sir William, and the Respondent, under a Pretence of Errors in the Particular, and to have an Allowance out of his Purchase Money on that Account.

The Respondent in his Answer offered, if the Appellant would wave his Purchase, that he would stand as Purchaser in his Place; but the Appellant would not consent to that Proposal.

And though the Respondent's Father lived two Years after the Filing that Bill, he was never required to put in an Answer.

The Respondent filed a Cross-Bill, to compel the Appellant to pay his whole Purchase Money, and that the Respondent might have the Benefit of the Decrees affirmed by your Lordships; to which the Appellant put in his Answer, and then instead of waving his Purchase, insisted on the same.

Upon hearing of these Causes, it was (*inter al*) decreed, that the Appellant should account for the Purchase Money of the said *Lymerick* Estate; and that after an Allowance of what he had paid, pursuant to the Decree and subsequent Orders of that Court, so much of the Residue of such Purchase Money should be laid out as would be necessary to Purchase the said 300 *l. per Annum*, and pay the Interest thereof to the Respondent from the Death of Sir William Barker, and that what remained should go to the Appellant.

That the Respondent being aggrieved by the Decree made on Hearing these Causes, as well as by the before mentioned Orders and Proceedings, subsequent to your Lordships Order of the 23d June, 1714. appealed to your Lordships.

That upon hearing the said Appeal, your Lordships were pleased to reverse the several Orders, Proceedings and Decrees, complained of by the said Appeal; and in Regard the now Respondent, by Virtue of his Father's Marriage Articles, and of the said Decrees, made the 7th of Decemb. 1702, and 27th of Nov. 1707. (which were affirmed by your Lordships) ought from the Time of his Father's Death, to have had an Estate in *Bocking* of 500 *l. per Ann.* free from Incumbrances; and another Estate of 300 *l. per Ann.* which should have been purchased according to the said Marriage Articles and Decrees; and it appearing to your Lordships, that the said 300 *l. per Annum*, nor any Part thereof, had been purchased; and that the now Respondent never had, nor could have any Benefit of the said *Bocking* Estate, by Reason of the many Incumbrances thereon, precedent to the said Marriage Articles.

It was ordered, That no such Purchase of 300 *l. per Annum* should be made; but that in lieu thereof, and of the *Bocking* Estate, the Sum of 17600 *l.* computed as the Value of 800 *l. per Annum*, at 22 Years Purchase,

Articles,
June 23, 1676.

Bill, March
10, 1698.

May 21, 1701.

Dec. 7, 1702.

Order of Re-
hearing, Nov.
7, 1707.

Order of the
House of
Lords, June
23, 1714.
Dec. 9, 1715.
Dec. 23, 1715.
Note, The
Respondent
had taken an
Assignment
of part of
Freek's Mort-
gage.

Nov. 20, 1717.
Iver's Bill.

January 12,
1719.

June 27,
1723.

Dec. 18, 1724.
Judgment of
the House of
Lords on
hearing the
Respondent's
Appeal.

Purchase, together with the Arrears of the said 800 *l. per Annum*, from the Death of the now Respondent's said Father, should be paid by the now Appellant to the now Respondent, or his Heirs, or his or their Order, at such Time and Place in *London* as the Court of Chancery in *Ireland* should appoint.

Towards Satisfaction of which, it was further ordered, that so much of the Purchase Money of 21410 *l.* agreed to be paid by the Appellant for the Purchase of the said *Lymerick Estate*, as exceeded what the Appellant had really paid to the Creditors of the now Respondent's Father, in pursuance of the said Decrees affirmed by your Lordships, in discharge of such Debts as were owing by him, and legally affected the said *Lymerick Estate*, at the Time of putting in his Answer on the 21st of *May*, 1701, to the Respondent's Bill, in the said Order mentioned, together with *Irish Interest* for such Part of the said Purchase Money exceeding what should appear to have been so paid as aforesaid, should be paid by the Appellant, his Heirs, Executors or Administrators, to the now Respondent, or his Heirs, at such Time and Place as aforesaid.

And the Court of Chancery in *Ireland* were forthwith to order an Account to be taken of what had been really and *bona fide* paid by the Appellant in pursuance of the said affirmed Decrees, in discharge of such Debts of the Respondent's said Father as were owing by him and legally affected his said *Lymerick Estate*, at the Time of putting in his said Answer, and that an Account should be taken of what should be due for *Irish Interest* for the Surplus of the said 21410 *l.* to such Time as should be appointed for Payment thereof; and that the Court of Chancery should order such Surplus of the said 21410 *l.* and the *Irish Interest* thereof, to be paid by the Appellant to the now Respondent, at such Time and Place in *London*, as the Respondent should Request the said Court of Chancery to nominate.

And that if default should be made by the Appellant in Payment of such Surplus and *Irish Interest*, the Appellant, and all Persons claiming under or in Trust for him, should convey all his and their Estate, Right, Title and Interest in the said *Lymerick Estate*, to the now Respondent and his Heirs; the Respondent or his Heirs, upon such Conveyances, paying to the Appellant such Sums of Money as should appear upon the said Account to have been paid by the Appellant in discharge of such Debts, as aforesaid; and that so much as should appear on the other Account to be due for Interest, to be computed as aforesaid, should be taken as a Satisfaction for so much thereof.

Feb. 1, 1724.

The Court of Chancery in *Ireland*, in pursuance of your Lordships Order, referred the Account to a Master; but tho' the Respondent gave in his Charge the 2d of *March* following, yet the Appellant making use of a great many extraordinary Delays, and praying a Commission to examine Witnesses in *England* and *Ireland*, which he never executed, the Appellant could not procure a Report till the 9th of *February*, 1725.

Feb. 9, 1725.
Master's Report.

The Master made his Report, and charged the Appellant with the Sum of 21410 *l.* being the Purchase Money for the Estate in question; and in the first Schedule to his said Report, stated an Account of what appeared to have been really and *bona fide* paid by the Appellant to the Creditors of the Respondent's Father, in discharge of such Debts as legally affected the said *Lymerick Estate*, according to your Lordships Order, at the Time of putting in the Respondent's Father's said Answer on the 21st of *May*, 1701, amounting to 6615 *l.* 18 *s.* 10 *d.* and allowed him the same.

But the Master reported, that the Appellant craved Credit for the following Sums, *viz.*

For the Interest of 1000 *l.* deposited by him with the Master, on his becoming Purchaser from the 27th of *July*, 1715, to the 22d of *December*, 1716, which was the Time he paid off the Mortgage to *Freek*, and came into Possession of the whole Estate, the Sum of 105 *l.* 9 *s.* 7 *d.*

And for the Interest of a Sum of 3188 *l.* 15 *s.* 10 *d.* paid in discharge of the Mortgage to *Riggs*, from the 14th of *March*, 1715, to the said 22d of *December*, 1716, the Sum of 196 *l.* 18 *s.* and which being added to the said 6615 *l.* 18 *s.* 10 *d.* made 6918 *l.* 6 *s.* 5 *d.* and being deducted out of the said Principal Purchase Money of 21410 *l.* there remained due of the said Principal Purchase Money to be accounted for by the Appellant the Sum of 14491 *l.* 13 *s.* 7 *d.*

And having added the Interest of the said Surplus Purchase Money from the 22d of *Dec.* 1716, to the 25th of *December*, 1725, the Sum total reported due from the Appellant for the said Principal Purchase Money and Interest, was the Sum of 24388 *l.* 11 *s.* 8 *d.*

And as to the Arrears of the 800 *l. per Annum*, ordered by your Lordships to be paid to the Respondent from the Death of his Father, the same was computed at the Sum of 5200 *l.* which being added to the 17600 *l.* ordered by your Lordships to be paid the Respondent in *London*, in lieu of 800 *l. per An.* in *England*, the whole Money then due to the Respondent, as stated by that Account, amounted to the Sum of 22800 *l.*

And the Master, in the second Schedule to his said Report, (without any Authority or Foundation, as the Respondent humbly conceives) took on himself to state Specially, that the Appellant insisted to have an Allowance for the following Sums, *viz.* 300 *l.* 7 *s.* 10 *d.* paid 22d of *July*, 1717, out of the 1000 *l.* deposit, and 124 *l.* 12 *s.* 2 *d.* paid by the Appellant, pursuant to an Order of the Court, dated the 10th of *July*, 1717, in discharge of a Debt of 425 *l.* mentioned to be due to one *Alexander Goodall*, on two Bonds, one dated the 13th of *February*, 1692, and the other the 3d of *July*, 1699. And the Master reported, that the said Sir *William Barker*, the Respondent's Father, in his Answer of the 21st of *May*, 1701, confessed, that the said Debt was due to the said *Goodall*, and that the same was ascertained by the Master, pursuant to an Order dated the 26th of *June*, 1717.

And that the Appellant also craved an Allowance for the Sum of 86 *l.* 13 *s.* 11 *d.* paid by the Appellant to *Richard Nutley*, Esq; the 29th of *November*, 1717, in discharge of a Debt mentioned to be due to one *John Rawley*, from the said late Sir *William Barker*, by Bond, and reported, that the said Sir *William*, the Father, acknowledged the said Debt in his Answer.

And further reported, That upon the Appellant's paying unto *Darby Egan* the Sum of 3031 *l.* 18 *s.* 11 *d.* pursuant to a Letter of Attorney from the said late Sir *William Barker* to the said *Egan*, he the said *Egan* did, by the Direction of the said late Sir *William*, give and deliver to the Appellant the several Bonds and Warrants of Attorney following, *viz.* a Warrant to acknowledge Satisfaction for a Judgment obtained by *Peter Buckley* against the said late Sir *William Barker*, for 81 *l.* 19 *s.* 7 *d.* a Bond from the said Sir *William Barker* to Sir *Richard Reynolds*, for 270 *l.* a Bond to *Douglas Ludlow*, for 80 *l.* and a Bond to *Samuel Keck*, Esq; for 200 *l.* a Bond to *Thomas Pearl*, and others, for 500 *l.* a Release of a Bond to *Martha Barker* for 80 *l.* and a Bond to *Jasper English*, for 30 *l.*

But the Master certified, that in Regard the Respondent insisted, that all the Orders, Reports and Proceedings, produced by the Appellant, to support the said Special Points, relating to the aforesaid Bonds, were reversed by your Lordships; and for that the Appellant brought no Proof in what Manner, or by whom the said Bonds were paid and discharged; he therefore submitted to the said Court, whether the said Sums, or any of them, should be allowed the Appellant; but that if all the said Bonds and Sums mentioned in the said Special Report were allowed, the same would amount to the Sum of 1753 *l.* 13 *s.* 6 *d.* which being added to the said Sum of 6918 *l.* 6 *s.* 5 *d.* allowed the Appellant by the said first Schedule, made in all 8671 *l.* 19 *s.* 11 *d.* which being deducted out of the said 21410 *l.* Principal Purchase Money, there would remain due from the Appellant, for the Surplus of the said Purchase Money, no more than the Sum of 12738 *l.* 1 *d.* And the Interest thereof being computed from the 22d *Dec.* 1716, to the 25th *Dec.*

Note, This was a Contribution between Appellant, and Egan and Respondent's Father to swallow as much of the Purchase Money as they could.

Nov. 1726
Note, Lord's Order 18th 1724 of 1701 there retained due to Respondent besides Arrears 800 *l.* sum.
Note, Appellant in strict in regard refused bringing Purchase Money in Court, where

Dec. 1725, amounted to 8699 l. 4 s. 1 d. which, together with two other Sums of 345 l. and 250 l. (which were afterwards waved by the Respondent) being added to the said Principal, the Master reported to be due for Principal and Interest, for the said Surplus Purchase Money; if the said 1753 l. 13 s. 6 d. were allowed, no more than the Sum of 22033 l. 4 s. 5 d.

That both Sides took several Exceptions to this Report, viz. the Appellant 13 Exceptions, and the Respondent 9 Exceptions.

And the Respondent's 4th Exception being, for that the Master ought not to have brought into the Account, or to give Credit to the Appellant for any Sums of Money but such as he really and *bona fide*, paid to the Creditors of the late Sir *William Barker*, and legally affected the said Estate on the 21st of May, 1701, according to your Lordships said Order; whereas he had in the second Schedule to his Report brought into the Account the several Sums before mentioned, amounting to 1753 l. 13 s. 6 d. which the Respondent conceived was contrary to the Directions of your Lordships said Order.

And Part of the Appellant's 2d Exception being also relating to the said Special Point, the Court therefore first proceeded on that Matter touching the said 1753 l. 13 s. 6 d. and on Debate of the same, it appearing that the Orders and Reports that the Appellant produced to support these Demands had been reversed by your Lordships, and so stated by the said Master; the Court over-ruled the Appellant's 2d Exception, and allowed the Respondent's 4th Exception; and at the same Time ordered, that the Appellant should have Credit for no other Debts paid but what legally affected the said *Lymerick* Estate, at the Time of putting in the late Sir *William Barker's* Answer.

And the Respondent's 2d Exception being, for that the Master had in his first Schedule given the Appellant an Allowance of 105 l. 9 s. 7 d. for Interest of the 1000 l. deposited by him in the Master's Hands, on his being allowed the Purchase, the 27th of July, 1715, which Interest was carried on from that Time to the 22d of Dec. 1716. which the Respondent conceived ought not to be done, being not warranted by your Lordships Order.

And the Appellant's 5th Exception being, for that the said Master ought to have carried on Interest for the said 1000 l. a Year further.

And both these Exceptions coming on together, and it appearing that the 1000 l. was voluntarily paid into Court as a depofite to perform the Purchase, and without any Order for that Purpose, and that the Appellant afterwards delayed the Execution of the Purchase Deeds, whereby the Creditors Debts carried Interest to the Prejudice of the Respondent. And no Proof being so much as offered, tho' called for by the Court, that any Part of it was applied to pay off any of the Debts that affected the Estate till after the Appellant got into the Possession of the said Estate, and received the Rents and Profits, the Court allowed the Respondent's 2d Exception, and over-ruled the Appellant's 5th Exception.

And the Appellant's 4th Exception was, for that the Master had only given him Interest for the Mortgage Money paid by him to *Riggs*, from the Time of Payment thereof, till the 22d Dec. 1716. whereas the Appellant pretended the Master ought to have carried on, and given him an Allowance for the Interest of that Mortgage, until the 4th of July, 1717. the Appellant pretending that he had not Possession till that Time; but upon arguing the said Exception, it appeared the Appellant was in Possession of that Part of the Estate in June, 1716. and that he had or might have received the Rents and Profits of the said Estate; therefore the Exception was over-ruled.

And the Appellant's 6th Exception was, for that the Master had not allowed him Interest for 2527 l. 10 s. 10 d. paid in Discharge of *Freek's* Mortgage, on the 22d Dec. 1716, to the 4th July, 1717, at which Time, and not before, he got the Possession; that upon arguing the said Exception, it fully appeared that the Appellant was in Possession of the said Estate; or if he was out of Possession of any Part, it was from his own Default; the Court therefore over-ruled the said Exception.

And the Appellant's 10th Exception was, for that he ought not to be charged with the Interest of the Surplus Purchase Money, but from the Death of the Respondent's Father, upon arguing of which it was referred back to the Master, with Directions to carry on the Interest of the said Purchase Money to the Death of the late Sir *William Barker*, and from thence to the Time of the Report, and to Report both Interests distinctly; and then the Court would consider of that Point.

And the 12th Exception was, for that the Master had not allowed him 81 l. 19 s. 7 d. on account of a Judgment Debt alledged to be due to one *Buckly*, which the Appellant pretended to have paid, tho' it appeared by the Proofs the Debt was paid off Ten Years before the Appellant became a Purchaser; on Arguing of which, it was referred back to the Master to examine if the same was a Debt paid pursuant to your Lordships Order.

And the Account was sent back to the Master to be stated, pursuant to the before Directions.

After this, for further Delay, the Appellant petitioned to Rehear the said Exceptions; but on Rehearing the same the 22d of July, 1726, the Court did not vary the former Order, but ordered the Master to expedite his Report.

The Master made his second Report; and as to the 81 l. 19 s. 7 d. pretended to be paid on Account of a Judgment Debt, it appearing that the same had been paid Ten Years before his Purchase, the Master disallowed it, and by his Report states the Interest of the Surplus Purchase Money of 14371 l. 18 s. 10 d. to the late Sir *William Barker's* Death, to be 2763 l. 5 s. 11 d. $\frac{1}{2}$. and which being added to the said 14371 l. 18 s. 10 d. makes due but 17135 l. 4 s. 9 d. $\frac{1}{2}$. And the said Master, by his said Report, states the said Interest that grew due from Sir *William's* Death for the said 14371 l. 18 s. 10 d. to the Date of his Report, being 22d of Nov. 1726, to amount to 7961 l. 15 s. 11 d. and which being added to the said 17135 l. 4 s. 9 d. $\frac{1}{2}$. makes due from the Appellant for his Purchase Money and Interest the Sum of 25097 l. 8 d. $\frac{1}{2}$.

And the said Master states, that there was due to the Respondent for the said 17600 l. and the Arrears of the said 800 l. *per Annum*, from the Death of the Respondent's Father to the 17th of November, 1726, the Sum of 23600 l.

That for further Delay, the Appellant took further Exceptions to this Report, and which were in Effect the same with his former Exceptions; and when they came on to be heard were all over-ruled.

And as to the Special Matter of the Master's Report touching the Interest Money due in Sir *William* the Father's Life, and what grew due after his Death, it appearing upon Debate of the said Special Matter, that the whole Purchase Money arising from the *Lymerick* Estate, after paying the Debts affecting the same at the Time of Sir *William's* Answer, was by your Lordship's Order to be applied for the Payment of what due to the Respondent; and it appearing that without the Interest that grew due in Sir *William's* Life-time, the same would not be sufficient; and that the Respondent had been in Possession and Receipt of the Rents and Profits from the 22d of December, 1716. and that the Interest was only computed from the Time of his Possession.

His

Nov. 22,
1726.
Note, By your
Lordships
Order of the
18th of Dec.
1724, the Sum
of 17600 l. is
thereby ascer-
tained to be
due to the
Respondent,
besides the
Arrear of the
800 l. *per An-*
num.

Note, The
Appellant,
in strictness,
in regard he
refused to
bring in his
Purchase Mo-
ney into
Court,
whereby In-

Interest run on
for the
Creditors)
ought to
have paid
Interest from
the Time he
became a
Purchaser,
which was in
July, 1715.
Feb. 22, 1726.
Order to con-
firm Report.

His Lordship directed, that the whole Interest for the Purchase Money, as well what became due before as after the Death of the said Sir William Barker, be allowed to the Respondent, and the Register being ordered to carry on Interest for the said Surplus Purchase Money from the Date of the said last Report, to the Day of confirming the same, the whole Sum due for the Surplus of the said Purchase Money, and the Interest thereof, from the Date of the Master's Report, to the 22d of Feb. 1726, amounted to 25348 l. 10 s. 9 d. 4. Irish Money. And the Register having by the like Order carried on the Arrears of what was due to the Respondent for the 800 l. per Annum, to the 17th of Feb. 1726; the Sum then due to the Respondent, amounted to 23800 l. English Money; and it was ordered, that the said Report should be confirmed, and that the Respondent might make up and enrol a Decree against the Appellant, pursuant to the said Order.

That tho' the said several Orders of the said Court of Chancery are exactly agreeable and made pursuant to your Lordships Judgment of the 18th Day of Dec. 1724, and rather in favour of the Appellant as to several Points, which the Respondent had a Right to insist on, but waved in his own Prejudice, to avoid Delay. The Appellant, to avoid paying Obedience thereto, and prevent the Respondent's having a Satisfaction for his so just Demands, after so many Suits for 30 Years, has brought this Appeal, and thereby appeals not against any particular Order, but against all the said Orders, Reports and Proceedings of the said Court of Chancery in Ireland, subsequent to your Lordships said Order of the 18th of Dec. 1724, and praying your Lordships to order, that an Allowance be made to him for the said Moneys really paid by him, pursuant to the said several Orders of Court; and that he may be allowed Interest for such Sums so paid by him before he was let into the Possession of the Premises, and that he may not be charged with Interest for the Surplus of the said Purchase Money during the Life of the late Sir William Barker.

That the Appeal was calculated for no other Reason, (as the Respondent humbly hopes will appear) but to delay the Respondent, and to keep him out of his Debt; for that the Appellant did not appeal from the said Order or Proceedings, till the 10th Day of April, 1727, when he knew the Respondent was too late to bring on the Cause to be heard that Session.

And it then appearing to your Lordships from the Respondent's Petition, the great Debt that was due to the Respondent, and which then amounted to the Sum of 23800 l. besides the Costs of Suit, and that the Fund to pay it was only the Estate, and which the Appellant had purchased for the Sum of 21410 l. and that the Appellant had committed great Waste on the Premises, and was very much involved in his Circumstances, whereby the Respondent was in Danger of being a very great Loser.

Your Lordships were pleased to order, that notwithstanding the Appeal, the Court of Chancery in Ireland, in Order to secure the Payment of the Money due to the Respondent, be at Liberty to appoint a Receiver, to receive the Rents and Profits of the Estate, and to grant an Injunction to stay Waste.

That the Court of Chancery accordingly appointed a Receiver, and granted an Injunction to stay Waste; and though the Respondent gave 10000 l. Security for the Receiver, yet by the Practices of the said Appellant, the said Appellant pretending he held great Part of the said Estate in his own Hands, and that he hath absolutely sold other Part thereof; and insisting, that therefore the Receiver has no Title to receive any Thing from him, the Rents not being ascertained, and that the Purchasers are not liable, the Receiver has not been able to receive above 25 l.

The Respondent therefore humbly hopes, that the said several Orders of the Court of Chancery, so made in Pursuance of your Lordship's Order, of the 18th Dec. 1724. shall be affirmed, that the Respondent may receive an immediate Satisfaction for his Demands; and that the said Petition of Appeal may be dismissed, with exemplary Costs; and that your Lordships, in Consideration that the Respondent hath been for upwards of 29 Years prosecuting only for a Performance of his Mother's Marriage Articles; and that this is the third Appeal that has been before your Lordships; that your Lordships will be pleased to appoint a Day for the Appellant to pay the Respondent the Principal and Interest so reported due, together with the Costs, decreed to the Respondent; or in Default thereof, that an Injunction may issue from the Court of Chancery in Ireland, to put the Respondent in the peaceable and quiet Possession of the said Estate; and that the said Appellant, and all Persons claiming by, from or under, or in Trust for him, do convey all his and their Estate, Right, Title and Interest in the Limerick Estate, by him so purchased, as aforesaid, unto the Respondent and his Heirs, according to your Lordships Order of the 8th Dec. 1724.

Tho. Lutwyche.
Will. Hamilton.

The Crd.^r of the Chancery in Ireland confirming the Ma.^r Report was Affirm'd with 100 Costs and that Court was Ordered specially & effectually to Cause the Judgm.^t of this House of the 18 of Dec.^r 1724 to be put in Execution.

Thomas Ivers, Esq; Appellant.

Sir William Barker, Bar. Respondent.

The Respondent's CASE.

To be Heard at the Bar of the House of
Lords, on
1728.